

REMARKS

1. Rejections

Applicant acknowledges with appreciation that the Examiner again has allowed claims 41-58, and now indicates that claims 5-11, 14, 17, 20, 23, 26, and 32-37 would be allowable if rewritten in independent form, including the limitations of their base claim and any intervening claims. Further, applicant acknowledges with appreciation that the Examiner has withdrawn his previous rejections in this application.

The Office Action now raises new grounds for rejecting the remaining claims in this application. Specifically, claims 1, 3, 4, 18, 29, and 30 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 4,957,508 to Kaneko et al. ("Kaneko"). Claims 1, 12, 15, 21, 27, and 38-40 also stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 6,589,278 to Harris et al. ("Harris"). In view of the foregoing amendments and the following remarks, Applicant respectfully traverses.

2. Anticipation Rejections

As noted above, claims 1, 3, 4, 18, 29, and 30 stand rejected as allegedly anticipated by Kaneko, and claims 1, 12, 15, 21, 27, and 38-40 stand rejected as allegedly anticipated by Harris. "A claim is anticipated if and only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131. The Office Action alleges that Kaneko describes each and every element as set forth in claims 1, 3, 4, 18, 29, and 30. The Office Action also alleges that Harris describes each and every element as set forth in claims 1, 12, 15, 21, 27, and 38-40. Applicant respectfully traverses.

a. Kaneko

Applicant amends claim 1 to describe a bypass graft comprising "a flared portion . . . wherein said flared portion comprises an interior surface formed, such that said interior surface does not generate [e.g., without or not subjected to] a dilating force." See Appl'n, Figs. 7a-7c. Applicant also adds new claim 59 in which a bypass graft comprises "a flared portion. . . wherein said flared portion comprises an exterior surface formed, such that said exterior surface is does not generate [e.g., without or not subjected to] a constricting force."

In contrast, Kaneko describes a medical tube which is manufactured using a core rod, and then is dried at a temperature between room temperature and 60° C. The medical tube “then is reversed, such that the internal cavity surface appears as the external surface.” Kaneko, Column 4, Lines 57-58. “The medical tube obtained dilates toward it[s] external surface at both ends and when it is cut at any random position, new cut ends likewise dilate toward the external surface.” Id. at Column 4, Lines 58-62 (emphasis added.) “This is because a dilating force acts on the internal surface and a shrinking force acts on the external surface by reversing the tube.” Id. at Column 4, Lines 62-65. Thus, the internal surface of the flared portion of the medical tube described in Kaneko generates a dilating force. Moreover, because Applicant’s bypass graft is not reversed, the interior surface of the flared portion of Applicant’s bypass graft does not generate a dilating force. Therefore, Applicant respectfully requests that the Examiner withdraw the anticipation rejection of claim 1 in view of Kaneko. Claims 3, 4, 18, 29, and 30 depend from amended claim 1. Therefore, Applicant also respectfully requests that the Examiner withdraw the anticipation rejection of claims 3, 4, 18, 29, and 30 in view of Kaneko.

b. Harris

Applicant also amends claim 1 to describe a bypass graft comprising a tubular portion having a first end and a second end, and “a flared portion having an adjoining end and a flared end, wherein said adjoining end is integrally formed on and is substantially concentric with said second end, and said adjoining end has a radius not less than a radius of said second end.” (Emphasis added.) See Appl’ns **Figs. 1-4** and **6-7c**.

In contrast, Harris describes a vascular prosthesis which includes a tube 10 and an end formation 54. End formation 54 has a flared end and a narrowing portion 70 or a concave transition portion 60. Specifically, an end of tube 10 is connected to either narrowing portion 70 or concave transition portion 60. Nevertheless, narrowing portion 70 and concave transition portion 60 each have a radius which is less than the radius of the end of tube 10. See, e.g., Harris, Column 2, Lines 33 and 34; and **Figs. 4-13**. Thus, Harris fails at least to describe a bypass graft comprising a flared portion having an adjoining end and a flared end, wherein said adjoining end is integrally formed on and is substantially concentric with said second end, and said adjoining end has a radius not less than a radius of said second end,” as set forth in amended claim 1. Therefore, Applicant respectfully requests that the Examiner to withdraw the anticipation rejection of claim 1 in view of Harris. Claims 3, 4, 18,

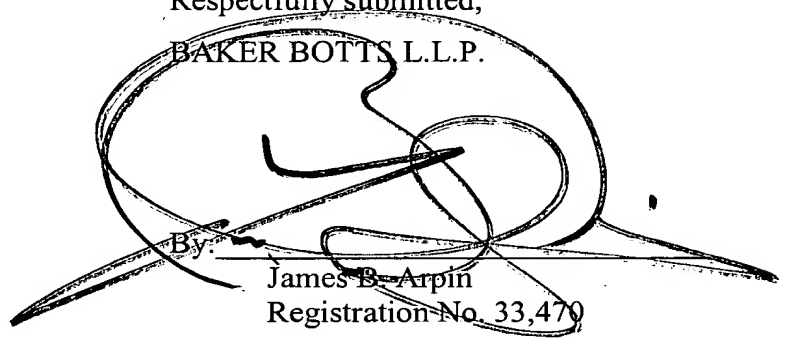
29, and 30 depend from amended claim 1. Therefore, Applicant also respectfully requests that the Examiner withdraw the anticipation rejection of claims 12, 15, 21, 27, and 38-40 in view of Harris.

CONCLUSION

Applicant respectfully submits that this application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that an interview with Applicant's representatives, either in person or by telephone, would expedite prosecution of this application, we would welcome such an opportunity.

Applicant is enclosing a check including the amount of \$86 covering the additional claim fee due as a result of these amendments. Nevertheless, in the event of any variance between the fees determined by Applicants and those determined by the U.S. Patent and Trademark Office, please charge any such variance to the undersigned's Deposit Account No. 02-0375.

Respectfully submitted,  
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